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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,371	04/22/2004	Glenn Robinson	31229-202841	7093
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VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER RAO, ANAND SHASHIKANT	
			ART UNIT 2621	PAPER NUMBER
			MAIL DATE 04/04/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/829,371

Applicant(s)

ROBINSON ET AL.

Examiner

Andy S. Rao

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 3/15/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112, First Paragraph

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 19 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the specification fails to specifically disclose the various embodiments of the computer program product (i.e. software, either embodied on a computer readable medium, or as software downloadable from a remote transmitted location). The only description that the Examiner can find pertaining to a computer program product... is a brief description of its correlation to a fourth aspect of the invention (Specification: page 5, lines 15-20). This is insufficient to meet written description requirement. Applicant is required to indicate where in the specification appropriate support for this limitation resides, and is cautioned against adding new matter.

Claim Rejections - 35 USC § 112, Second Paragraph

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A). Claim 13, line 2, "...said third selected audio video data..." lacks antecedent basis and should be clarified.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 19 are rejected under 35 U.S.C. 101 because they are directed towards nonstatutory subject matter.

A). The Examiner notes that "computer program product..." is not a statutory class of invention. Data structures not claimed as embodied (or encoded with or embedded with) in a computer readable medium are descriptive material per se, and are not statutory, *Warmerdam*, 33 F.3d at 1361, 31, USPQ2d at 1760). Similarly, computer programs claimed as computer listings, instructions, or codes are just the descriptions, expressions, of the program are not "physical things". They have neither computer components nor statutory processes, as they are not "acts"

being performed. In contrast, a claimed "...computer readable medium encoded with a computer program..." is a computer element which defines structural and function interrelationships between the computer program and the rest of the computer, and is statutory, Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. See Interim Guidelines, Annex IV (Section a).

Corrections to the claims, and supporting specification are required.

Claim Objections

8. Claims 8-9 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 8-9 not been further treated on the merits.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-7, 10-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirsten (US Patent: 5,724,475).

Kirsten discloses a method of storing audio/video data (Kirsten: figures 12A-12B) comprises: capturing a plurality of audio/video data (Kirsten: column 10, lines 50-55); storing said audio/video data at a first spatial and/or temporal resolution for a first time period (Kirsten: column 10, lines 10-20); and storing said audio/video data at a second, lower, spatial and/or

temporal resolution for at least a second, later, time period (Kirsten: column 15, lines 30-50), as in claim 1.

Regarding claims 2-3, Kirsten discloses in which the first/second spatial resolution is a number of bits/pixels per frame of video data (Kirsten: column 30, lines 10-23), as in the claims.

Regarding claims 4-5, Kirsten discloses removing first selected audio/video data from said audio/video data stored at said first spatial resolution and/or temporal resolution to achieve said second spatial and/or temporal resolution (Kirsten: column 30, lines 45-55), as in the claims.

Regarding claims 6-7, Kirsten discloses a step of storing said audio/video at a third, still lower, spatial and/or temporal resolution for at least a third (Kirsten: column 30 lines 50-55), still later, time period, (Kirsten: column 28, lines 58-67), as in the claims.

Regarding claims 10, Kirsten discloses in which the audio/video data is stored in an MPEG or MJPEG format (Kirsten: column 12, lines 65-67; column 13, lines 1-10), as in the claim.

Regarding claims 11-13, Kirsten discloses wherein said first selected audio/video data are preferably B-frames, and which said second selected audio/video data are P-frames (Kirsten: column 34, lines 63-65), and in which said third selected audio/video data is a plurality of I-frames of the audio/video data (Kirsten: column 34, lines 60-63), as in the claims 14.

Regarding claim 14, Kirsten discloses in which the first time period is approximately 0.5 to 2 days in length (Kirsten: column 16, lines 10-15), as in the claim.

Regarding claim 15, Kirsten discloses in which the second time period is approximately 5 to 10 days in length (Kirsten: column 28, lines 60-67), as in the claim.

Kirsten discloses a system for storing audio/video data (Kirsten: figure 22) comprises: at least one audio/video data capture means (Kirsten: column 10, lines 50-55); audio/video data storage means (Kirsten: column 10, lines 10-20); and control means (Kirsten: column 17, lines 15-25); wherein the system is operable to capture audio/video data and store said audio/video data at a first spatial and/or temporal resolution for a first time period (Kirsten: column 15, lines 10-25) and is operable to store said audio/video data at a second, lower, spatial and/or temporal resolution for at least a second, later, time period (Kirsten: column 15, lines 23-45), as in claim 16.

Regarding claim 17, Kirsten discloses in which the control means is operable to remove first selected audio/video data from said audio/video data stored at said first spatial and/or temporal resolution to achieve said second spatial and/or temporal resolution (Kirsten: column 30, lines 10-40), as in the claim.

Regarding claim 18, Kirsten discloses a computer programmed to perform the method (Kirsten: column 9, lines 65-67; column 10, lines 1-7), as in the claim.

Regarding claim 19, Kirsten discloses a computer program product operable to perform the method (Kirsten: column 11, lines 35-45), as in the claim.

Regarding claim 20, Kirsten discloses a system for capturing audio/video data comprises audio/video data capture means, storage means and control means, wherein the system is operable to perform the method (Kirsten: figure 22), as in the claim.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao
Primary Examiner
Art Unit 2621

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Primary Examiner, Art Unit 2621
March 28, 2008